

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT JUNEAU

THE ALASKA LEGISLATIVE COUNCIL,
on behalf of THE ALASKA STATE
LEGISLATURE,

Plaintiff,

v.

HONORABLE MICHAEL J. DUNLEAVY,
in his official capacity as Governor
for the State of Alaska,
KELLY TSHIBAKA, in her official
capacity as Commissioner of
Administration for the State
of Alaska, and MICHAEL JOHNSON,
in his official capacity as Commissioner of
Education and Early Development for
the State of Alaska.

Defendants.

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Original Received

JUL 10 2019

Clerk of the Trial Courts
AB

Case No. 1JU-19- 00753 CI

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF
AND AN ACCOUNTING**

For its claims for relief, and without waiving any rights, privileges or immunities of
Legislative Council, the Legislature, or any member of the Legislature, Plaintiff alleges
as follows:

PARTIES

1. Plaintiff Alaska Legislative Council (hereinafter "Council") is a permanent
interim committee of the Alaska State Legislature (hereinafter "Legislature") and
consists of 14 legislators.

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FACTUAL ALLEGATIONS

10. Under articles II and IX, Constitution of the State of Alaska, the power of appropriation rests with the Legislature.

11. Under article III, section 16, Constitution of the State of Alaska, the Governor "shall be responsible for the faithful execution of the laws."

12. Under article VII, section 1, Constitution of the State of Alaska, "[t]he [L]egislature shall by general law establish and maintain a system of public schools open to all children of the State"

13. On February 7, 2018, the Alaska State House of Representatives passed HB 287 (brf sup maj fld). On April 14, 2018, the Alaska State Senate passed SCS HB 287(FIN). On April 18, 2018, the Alaska State House of Representatives passed SCS HB 287(FIN) by concurring in the Senate amendments. On April 30, 2018, SCS HB 287(FIN) was transmitted to Governor Bill Walker. On May 4, 2018, Governor Bill Walker signed SCS HB 287(FIN) into law, which became chapter 6, SLA 2018.

14. Chapter 6, SLA 2018, which took effect July 1, 2019, appropriates full funding for public school districts in the state and for transportation of students, as well as one-time additional money for public schools, for the fiscal year 2020.

15. Alaska Statute 14.17.610(a) provides that "[o]n or before the 15th day of each of the first nine months of each fiscal year, one-twelfth of each district's state aid shall be distributed on the basis of the data reported for the preceding fiscal year."

1 16. Defendants have failed to execute or otherwise disburse the funds
2 appropriated by the Legislature for public school districts for the fiscal year 2020.
3 Without disbursement of state funding to public school districts, public schools across
4 the State will not be able to open their doors for the 2019-2020 school year.

5 **PLAINTIFF'S FIRST CLAIM (STATE AID)**

6 17. The allegations in paragraphs 1-16 of this complaint are realleged and
7 incorporated by reference.

8 18. In section 5(c), ch. 6, SLA 2018, the Legislature appropriated "[t]he amount
9 necessary to fund the total amount for the fiscal year ending June 30, 2020, of state aid
10 calculated under the public school funding formula under AS 14.17.410(b) . . . from the
11 general fund to the public education fund (AS 14.17.300)."

12 19. Defendants have failed to execute the appropriation made in section 5(c), ch.
13 6, SLA 2018, or to distribute the amount appropriated in section 5(c), ch. 6, SLA 2018,
14 to school districts in accordance with Alaska Statute 14.17.610(a).

15 20. Defendants' failure to distribute the amount appropriated in section 5(c), ch.
16 6, SLA 2018, to school districts in accordance with Alaska Statute 14.17.610(a)
17 infringes on the ability of the Legislature to maintain a system of public schools in
18 accordance with article VII, section 1, Constitution of the State of Alaska.

19 21. Defendants' failure to execute the appropriation made in section 5(c), ch. 6,
20 SLA 2018, unlawfully infringes upon the legislative power of appropriation and is in
21

1 violation of article III, section 16, Constitution of the State of Alaska, and in violation of
2 the separation of powers doctrine.

3 22. Plaintiff is entitled to declaratory and injunctive relief ordering Defendants
4 to faithfully execute the appropriation made in section 5(c), ch. 6, SLA 2018 and to
5 distribute the funds to school districts in accordance with Alaska Statute 14.17.610(a)
6 without further delay.

7 **PLAINTIFF'S SECOND CLAIM (TRANSPORTATION**
8 **OF STUDENTS)**

9 23. The allegations in paragraphs 1-22 of this complaint are realleged and
10 incorporated by reference.

11 24. In section 5(d), ch. 6, SLA 2018, the Legislature appropriated "[t]he amount
12 necessary to fund transportation of students under AS 14.09.010 for the fiscal year
13 ending June 30, 2020, . . . from the general fund to the public education fund
14 (AS 14.17.300)."

15 25. Defendants have failed to execute the appropriation made in section 5(d), ch.
16 6, SLA 2018, or to distribute the amount appropriated in section 5(d), ch. 6, SLA 2018,
17 to school districts in accordance with Alaska Statute 14.17.610(a).

18 26. Defendants' failure to distribute the amount appropriated in section 5(d), ch.
19 6, SLA 2018, to school districts in accordance with Alaska Statute 14.17.610(a)
20 infringes on the ability of the Legislature to maintain a system of public schools in
21 accordance with article VII, section 1, Constitution of the State of Alaska.

1 27. Defendants' failure to execute the appropriation made in section 5(d), ch. 6,
2 SLA 2018, unlawfully infringes upon the legislative power of appropriation and is in
3 violation of article III, section 16, Constitution of the State of Alaska, and in violation of
4 the separation of powers doctrine.

5 28. Plaintiff is entitled to declaratory and injunctive relief ordering Defendants
6 to faithfully execute the appropriation made in section 5(d), ch. 6, SLA 2018, and to
7 distribute the funds to school districts in accordance with Alaska Statute 14.17.610(a)
8 without further delay.

9 **PLAINTIFF'S THIRD CLAIM (GRANT FUNDING)**

10 29. The allegations in paragraphs 1-28 of this complaint are realleged and
11 incorporated by reference.

12 30. In section 4, ch. 6, SLA 2018, the Legislature made the following
13 appropriation:

14 The sum of \$30,000,000 is appropriated from the general fund to
15 the Department of Education and Early Development to be
16 distributed as grants to school districts according to the average
17 daily membership for each district adjusted under
18 AS 14.17.410(b)(1)(A) - (D) for the fiscal year ending June 30,
19 2020.

31. Defendants have failed to execute the appropriation made in section 4, ch. 6, SLA 2018, or to distribute the amount appropriated in section 4, ch. 6, SLA 2018, to school districts.

32. Defendants' failure to distribute the amount appropriated in section 4, ch. 6, SLA 2018, to school districts infringes on the ability of the Legislature to maintain a system of public schools in accordance with article VII, section 1, Constitution of the State of Alaska.

33. Defendants' failure to execute the appropriation made in section 4, ch. 6, SLA 2018, unlawfully infringes upon the legislative power of appropriation and is in violation of article III, section 16, Constitution of the State of Alaska, and in violation of the separation of powers doctrine.

34. Plaintiff is entitled to declaratory and injunctive relief ordering Defendants to faithfully execute the appropriations made in section 4, ch. 6, SLA 2018, and to distribute the funds to school districts in accordance with Alaska Statute 14.17.610(a) without further delay.

RELIEF REQUESTED

WHEREFORE, the Alaska Legislative Council, on behalf of the Alaska State Legislature, requests the following relief:

1. Declaratory judgment that Defendants have violated the Constitution of the State of Alaska by failing to execute the appropriation made in in section 5(c), ch. 6,

1 SLA 2018 and failing to distribute to school districts the amounts appropriated by the
2 Legislature.

3 2. Declaratory judgment that Defendants have violated the Constitution of the
4 State of Alaska by failing to execute the appropriation made in in section 5(d), ch. 6,
5 SLA 2018 and failing to distribute to school districts the amounts appropriated by the
6 Legislature.

7 3. Declaratory judgment that Defendants have violated the Constitution of the
8 State of Alaska by failing to execute the appropriation made in in section 4, ch. 6, SLA
9 2018 and failing to distribute to school districts the amounts appropriated by the
10 Legislature.

11 4. An injunction mandating Defendant Kelly Tshibaka, as the Commissioner of
12 the Department of Administration of the State of Alaska, and Defendant Michael
13 Johnson, as the Commissioner of the Department of Education and Early Development
14 of the State of Alaska, and their successors, agents, and employees to disburse money to
15 school districts in accordance with the following appropriations passed by the
16 Legislature and enacted into law:

17 (A) Section 5(c), ch. 6, SLA 2018;

18 (B) Section 5(d), ch. 6, SLA 2018; and

19 (C) Section 4, ch. 6, SLA 2018.

20 5. An injunction prohibiting Defendant Michael J. Dunleavy, as Governor of the
21 State of Alaska, and his successors, officers, agents, servants, employees, or attorneys

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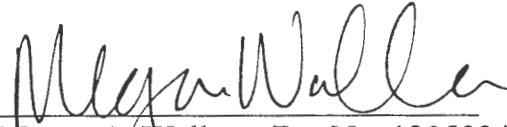
1 from impounding or withholding money from the appropriations described in paragraph
2 4 of this prayer for relief.

3 6. An order requesting Defendants Kelly Tshibaka and Michael Johnson, or their
4 successors, to give Plaintiff an accounting of the expenditures of all money under the
5 appropriations described in paragraph 4 of this prayer for relief, indicating when, how
6 much, and to whom, each expenditure was made.

7 7. Plaintiff's attorney's fees and costs herein.

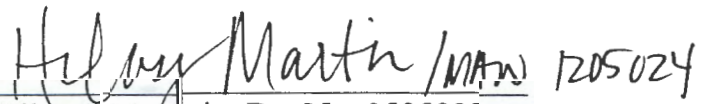
8 8. Such other relief as the Court may find to be just and equitable.

9 Respectfully submitted this 16th day of July, 2019.

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THIS MATTER IS FORMALLY
ASSIGNED TO
DANIEL SCHALLY
SUPERIOR COURT JUDGE

ATTORNEYS FOR THE ALASKA LEGISLATIVE
COUNCIL